



28 JUL 2009

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SUITE 1400
ARLINGTON, VA 22201

In re Application of BORSI et al :
U.S. Application No.: 10/507,178 :
PCT Application No.: PCT/IB2003/001458 :
Int. Filing Date: 11 March 2003 : DECISION
Priority Date Claimed: 11 March 2002 :
Attorney Docket No.: ELLIS-0001 :
For: ANTIBODIES DERIVED FROM ANTI ED-B :
L19 AND TARGETING TUMOR VASCULATURE :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 21 September 2007.

BACKGROUND

On 11 March 2003, applicant filed international application PCT/IB2003/001458, which claimed priority of an earlier United States application filed 11 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2004.

On 10 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that, *inter alia*, a sequence listing must be filed.

On 31 May 2005, applicant filed a sequence listing.

On 12 February 2007, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which indicated that a new sequence listing must be filed.

On 13 March 2007, international application PCT/IB2003/001458 became abandoned as to the United States for failure to timely respond to the Notification to Comply.

On 21 September 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has not provided the required reply. Specifically, the sequence listing could not be accepted.¹

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

¹ See attached sequence listing error report.

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "Bryan Lin".

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303

Facsimile: 571-273-0459

ATTACHMENT: sequence listing error report

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Sequence Listing could not be accepted.

If you need help call the Patent Electronic Business Center at (866)
217-9197 (toll free).

Reviewer: markspencer

Timestamp: Tue Oct 16 14:35:46 EDT 2007

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Reviewer Comments:

Please remove all line headers from the sequence listing.

Example:

<120> TITLE OF INVENTION: Antibodies Derived from Anti ED-B L19 and
Targeting Tumor Vasculature

Remove TITLE OF INVENTION:.

Application No: 10507178

Version No: 1.0

Input Set:

Output Set:

Started: 2007-09-25 13:26:43.538

Finished: 2007-09-25 13:26:43.988

Elapsed: 0 hr(s) 0 min(s) 0 sec(s) 450 ms

Total Warnings: 7

Total Errors: 0

No. of SeqIDs Defined: 15

Actual SeqID Count: 15

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<110> APPLICANT: Borsi, Laura
 Carnemolla, Barbara
 Balza, Enrica
 Castellani, Patrizia
 Zardi, Luciano
 Friebe, Matthias
 Hilger, Christoph-Stephan

<120> TITLE OF INVENTION: Antibodies Derived from Anti ED-B L19 and Targeting Tumor Vasculature
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 <141> CURRENT FILING DATE: 2004-09-10
 <150> PRIOR APPLICATION NUMBER: PCT/IB03/01458
 <151> PRIOR FILING DATE: 2003-03-11
 <150> PRIOR APPLICATION NUMBER: US 60/363,045
 <151> PRIOR FILING DATE: 2002-03-11
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